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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,408	07/09/2003	Glenroy J. Alexis	4281-4	7943

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EXAMINER

CUMMING, WILLIAM D

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/615,408

Applicant(s)

GLENROY ALEXIS

Examiner

WILLIAM D. CUMMING

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 5-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 5-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on October 12, 2005.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The use of "*protocols*", protocols and standards change over time, hence, it is inappropriate to have the scope of a claim change with time. Since organizations implementing standards meet regularly and have the authority to modify standards, any connection a claim may have to these standards may vary over time. The other aspect arising from this is enablement. If the standard changes, the disclosure may no longer support the limitation. If the scope of the invention sought to be patented cannot be determined from the language of the claims, a second paragraph rejection is appropriate (In re

Wiggins, 179 USPQ 421). Note:

<http://www.uspto.gov/web/offices/dcom/bpai/decisions/fd970622.pdf>

Regarding claim 2, the presence of a trademark or trade name in a claim is not, *per se*, improper under **35 U.S.C. 112**, second paragraph, but the claim should be carefully analyzed to determine how the mark or name is used in the claim. It is important to recognize that a trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. See definitions of trademark and trade name in **MPEP § 608.01(v)**. If the trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of the **35 U.S.C. 112**, second paragraph. *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. In fact, the value of a trademark would be lost to the extent that it became descriptive of a product, rather than used as an identification of a source or origin of a product. Thus, the use of a trademark or trade name in a claim to identify or describe a material or product would not only render a claim indefinite, but would also constitute an improper use of the trademark or trade name. If a trademark or trade name appears in a claim and is not intended as a limitation in the claim, the question of why it is in

the claim should be addressed. Does its presence in the claim cause confusion as to the scope of the claim? If so, the claim should be rejected under **35 U.S.C. 112**, second paragraph.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by **Tam**.

**Tam** discloses a communication system (figure 1) comprising a communication device (figure 3) and interface circuitry (figure 5) connected to a landline communication network (figure 4, #52) and comprising a wireless transceiver (#12) for communicating over a wireless communication link (#53) with a wireless communication device (#14) for a wireless communication network (#53), wherein the interface circuitry selectively connects the communication device to the landline communication network (#52) for landline calls and to the wireless communication device (#10) via the wireless communication link (#53) for wireless calls.



**Tam** shows the interface circuitry comprises a first switch (#235) connected between the communication device (#14) and the ring-tip line pair (#301, 30, 302). A second switch (#123) connected between the communication device and the wireless communication device (#14) and a processing circuit (#124, 24-3, 127) for controlling the first (#235) and second switches (#123).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Tam**.

Applicant admits that wireless communication link uses the Bluetooth protocol or wireless communication link uses an 802.11 protocol is old, well known, and admitted prior art. Hence, it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to incorporate the admitted prior art in the communication system of **Tam** in order the communication system to use commercially available and standard communication protocols.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Byrne** discloses a radio telephone (200) is operable in a cordless telephone system or in a cellular telephone system, in each of which reception and transmission occur in time slots. A microprocessor (210) of the telephone has an additional control entity (212) which predicts temporal overlap or coincidence of receive and transmit slots in the two systems. This information is used either to alter the time slots to avoid the predicted overlap or coincidence or to reduce the effect of interference, for example by muting certain slots or repeating signals in previous slot or slots.

**Raffel, et al** a mobile station communicates with both a cellular network, by which it is assigned a mobile identification number, and to a cordless cellular base station utilizing the same cellular frequency range and communications protocol. The cordless cellular base station is preferably connected to a public switched telephone network and is assigned a landline number. The cordless cellular base station acts as a conduit between the mobile station and the public switched telephone network. When the mobile station comes within range of a cordless cellular base station, it deregisters automatically from the cellular network and register with the cordless cellular base station. Once the mobile station is communicating with the cordless cellular base station, the cordless cellular base station communicates with the cellular network to instruct the



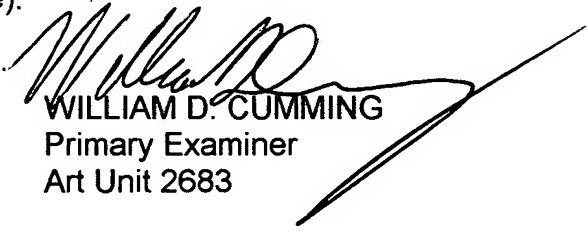
cellular network to route all calls for mobile identification number to the cordless cellular base station's landline number. In addition, all calls placed on the mobile station are sent through the cordless cellular base station to the public switched telephone network. When the mobile station severs contact with the cordless cellular base station, the mobile station registers with the regional cellular base station of the regional cellular network. The cordless cellular base station then sends a network forwarding cancellation message to the cellular network to cancel the forwarding of calls for the mobile station's identification number. Once the mobile station is registered with the regional cell, calls to the mobile stations identification number are directly routed by the cellular network to the mobile station.

9. If applicants wish to request for an interview, an "*Applicant Initiated Interview Request*" form (PTOL-413A) should be submitted to the examiner prior to the interview in order to permit the examiner to prepare in advance for the interview and to focus on the issues to be discussed. This form should identify the participants of the interview, the proposed date of the interview, whether the interview will be personal, telephonic, or video conference, and should include a brief description of the issues to be discussed. A copy of the completed "*Applicant Initiated Interview Request*" form should be attached to the Interview Summary form, PTOL-413 at the completion of the interview and a copy should be given to applicant or applicant's representative.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **WILLIAM D. CUMMING** whose telephone number is **571-272-7861**. The examiner can normally be reached on Monday-Thursday 11am-5:30pm.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
WILLIAM D. CUMMING  
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